

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

HOWARD JOHNSON  
INTERNATIONAL, INC.,

Plaintiff,

v.

85 FIFTH STREET ASSOCIATES LLC, et  
al.,

Defendants.

CASE NO. C04-110JLR

ORDER

HOWARD JOHNSON  
INTERNATIONAL, INC.,

Plaintiff,

v.

85 FIFTH STREET ASSOCIATES LLC, et  
al.,

Defendants.

CASE NO. C04-112JLR

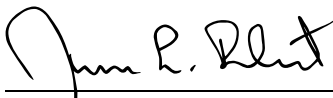
The court has received the motion of Howard Johnson International, Inc. (“HJI”) to voluntarily dismiss all of its remaining claims in this consolidation action (Dkt. # 33).

The court finds the request proper under Fed. R. Civ. P. 41(a)(2). The court notes that this action is stayed as to the two individual Defendants, Lawrence Horowitz and

1 Andre Tatibouet, because both have filed for bankruptcy protection. Nonetheless, a  
2 bankruptcy stay does not prohibit the court from giving effect to a voluntary dismissal of  
3 claims against a bankrupt defendant. Independent Union of Flight Attendants v. Pan Am.  
4 World Airways, Inc., 966 F.2d 457, 458-59 (9th Cir. 1992) (holding that a court may  
5 effect dismissal that is consistent with the aims of 11 U.S.C. § 362(a)). The court also  
6 notes that the individual Defendants have no affirmative claims in this action. Only the  
7 entity Defendants filed counterclaims in this action, and the court dismissed those  
8 counterclaims in prior orders. See Case No. 04-112, Dkt. # 9 (counterclaim by 85 Fifth  
9 Street Associates, LLC); Case No. 04-110, Dkt. # 8 (counterclaim by 85 Fifth Street  
10 Associates, LLC), Dkt. # 22 (dismissing counterclaim in No. 04-110), Dkt. # 28  
11 (dismissing counterclaim in No. 04-112).

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13 Thus, Plaintiff's motion for voluntary dismissal leaves no claims remaining in this  
14 action. The court therefore GRANTS the motion for voluntary dismissal (Dkt. # 33), and  
15 directs the clerk to DISMISS this consolidated action.

16 Dated this 9th day of January, 2006.

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20 James L. Robart  
21 United States District Judge  
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